

# Appeals Panel Agenda

## Members of the Appeals Panel

(Three members needed for this meeting highlighted)

**Cllr N J Brennan (Chairman)**

**Cllr S Prutton (Vice-Chairman)**

Cllr S J Catchpole

Cllr S M Clancy

**Cllr K E Lawrence**

Cllr M L Murrell

Cllr R E Potter

Cllr J L Thomas

## Date & Time:

Thursday 10 November 2022

9:30am for the site inspection

10.30am for the meeting

## Place:

Site Inspection: 87 Cawston Road, Aylsham, NR11 6ED

Meeting: Council Chamber, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, NR7 0DU

## Contact:

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Website: [www.southnorfolkandbroadland.gov.uk](http://www.southnorfolkandbroadland.gov.uk)

## PUBLIC ATTENDANCE:

You may register to speak by emailing us at [committee.bdc@southnorfolkandbroadland.gov.uk](mailto:committee.bdc@southnorfolkandbroadland.gov.uk) no later than 5pm on Monday 7 November 2022

## Large print version can be made available

If you have any special requirements in order to attend this meeting, please let us know in advance.

# AGENDA

1. **To receive declarations of interest from members;**  
(guidance and flow chart attached – page 3)
2. **To report apologies for absence and to identify substitute members;**
3. **To consider the minutes of the meeting held on 19 July 2022:**  
(minutes attached – page 5 )
4. **Provisional Tree Preservation Order (TPO 2022 No 8) 87 Cawston Road, Aylsham NR11 6ED** - to consider representations received to the making of the Order;  
(procedure to be followed attached at page 10 and report attached at page 12)

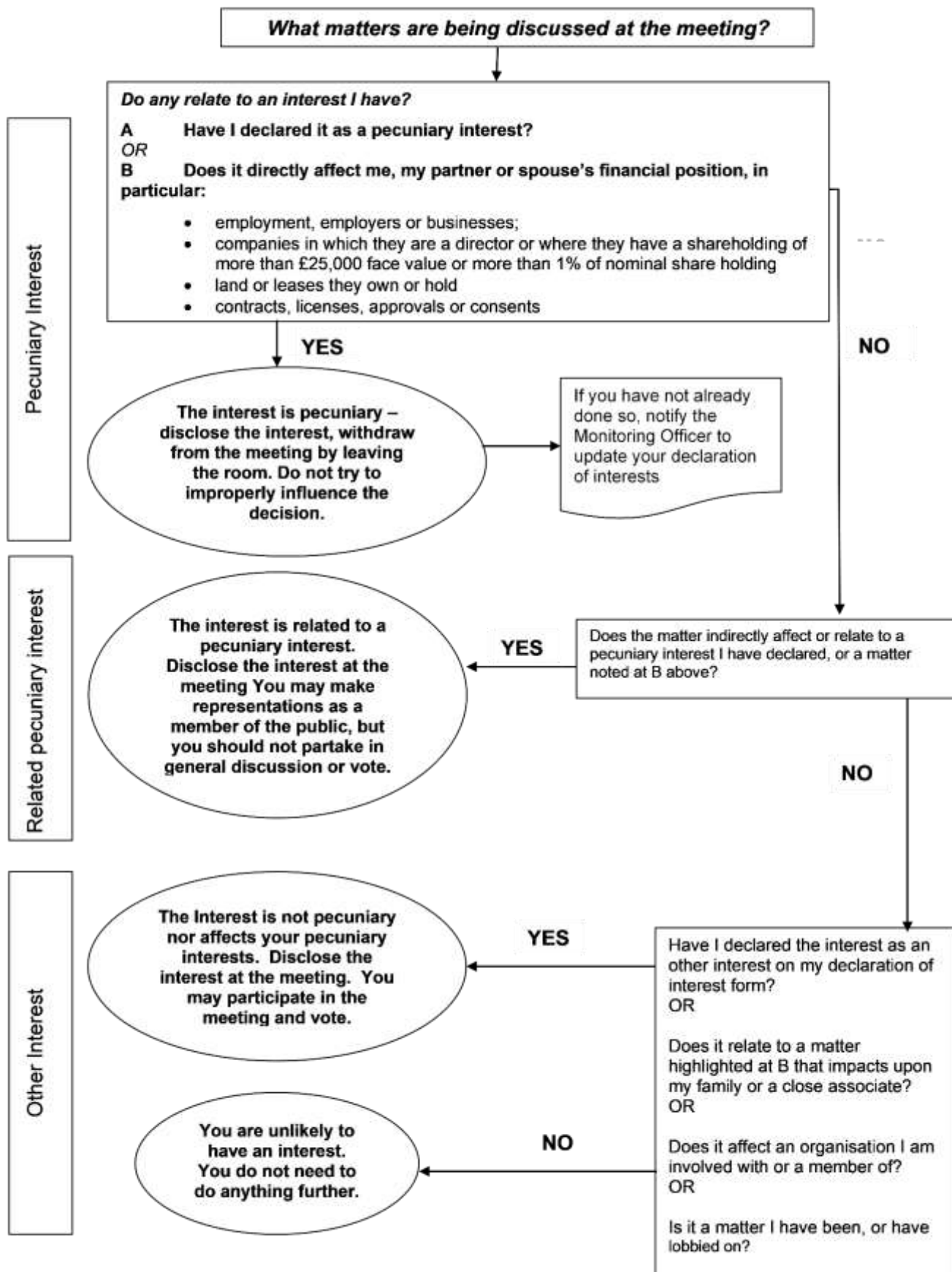
## DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.
<p>Does the interest directly:</p> <ol style="list-style-type: none"><li>1. affect yours, or your spouse / partner's financial position?</li><li>2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?</li><li>3. Relate to a contract you, or your spouse / partner have with the Council</li><li>4. Affect land you or your spouse / partner own</li><li>5. Affect a company that you or your partner own, or have a shareholding in</li></ol> <p>If the answer is "yes" to any of the above, it is likely to be pecuniary.</p> <p>Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.</p>
<p>Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?</p> <p>If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.</p>
<p>Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.</p>
<p>Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.</p>

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.  
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST  
INSTANCE**

## DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



## APPEALS PANEL

Minutes of a meeting of the Appeals Panel of Broadland District Council, held on Tuesday 19 July 2022 at 10.30am at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich.

**Committee Members Present:** Councillors: N J Brennan (Chairman), S Catchpole and S Prutton

**Speakers present:** Jason Boast – objecting  
Andrew Coombes – for the objector  
James Dent – for the objector

**Officers in Attendance:** The Conservation and Tree Officer (MS) – presenting the case for the Order and the Democratic Services Officers (DM/LA)

### 1 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

No declarations were made.

### 2 APOLOGIES FOR ABSENCE

No apologies were received.

### 3 MINUTES

The minutes of the meetings held on 9 March and 13 March 2022 were confirmed as a correct record and signed by the Chairman.

### 4 PROVISIONAL TREE PRESERVATION ORDER (TPO 2022 No 3) HILL HOUSE, 2 MIDDLE HILL REEDHAM NR13 3T

The Chairman welcomed everyone to the meeting and explained the procedure to be followed. Prior to the meeting, the Panel had taken the opportunity to visit the site and view the tree and its location. Mr J Boast was in attendance at the site meeting.

Members firstly heard from the objector. He explained that he had purchased his house 8 years ago. At that time the house had been empty for a number of years and the house and garden including the trees had been neglected.

He had undertaken a range of remedial works to the house and garden and, because of issues with insurance and complaints from neighbours about dead wood from the trees, he had arranged for the trees to be pruned and managed to remove dead wood. He had then encountered issues with the tree roots and the cellar of the house. A programme of remedial work had been undertaken to prevent any further damage to the cellar from tree roots. These included root trimming and underpinning. Mr Boast went on to state that he subsequently took the decision to arrange for removal of the 2 trees. One tree had been removed but works to remove the second tree had been stopped following the serving of the provisional TPO. He explained that the decision to remove the trees had not been taken lightly; he had invested circa £8,000 in getting the trees to a good condition over the 8 years but the issues with the damaged foundations had been the final straw in trying to manage the trees.

Mr Boast then answered questions from members. He explained that when the first tree had been removed it had shown signs of internal rot. He had researched a number of contractors to undertake the removal work and he had intended for both trees to be removed as it was difficult to determine which tree roots were causing the problems. In response to a question about how much of the root network had been removed, Mr Boast explained that the roots had only been able to be trimmed as far as was possible to excavate under the foundations as to not cause damage to the foundations. This had then been back filled with concrete and steel. The house had been built between 1836 and 1840 with foundations that were not comparable to current standards. The house was also built on clay. The cellar now contained a floating suspended floor to accommodate the underpinning carried out. Mr Boast confirmed that when first purchasing the house he had no issue with the trees and indeed had spent 8 years maintaining them with the intention of retaining them. He had consulted with nearby residents and the owner of the holiday cottages opposite and all were in favour of removal of the trees to avoid dead wood in the road and help alleviate the damp caused but the shade of the tree. Mr Boast added that he was willing to provide a number of fruit trees in replacement for the removed trees. Aerial photographs dating back to the 50s/60s indicated that a range of fruit trees had originally existed along the east side of the garden. He was currently investing in the restoration of the garden including the installation of a retaining wall to solve a slippage issue.

With regard to the issue of insurance, Mr Boast stated that there were concerns about potential injury caused by residents tripping on tree debris. He had encountered difficulties in securing insurance for the tree without assurance that the tree was safe. He had been advised to secure a specialist form of cover as opposed to generic house cover. The Conservation and Tree Officer commented that it was not unusual for insurance companies to ask the question as to whether there were any trees within 15m of a property. In reality a large number of properties were within 15 m of a tree and insurance companies could be challenged if they were not responsive on this. Mr Boast had evidence of the engineering works carried out to protect the foundations from the tree roots. Mr Boast added that the clay soil on which the foundations sat was also an issue.

In response to questions from the Conservation and Tree Officer, Mr Boast confirmed that the works carried out to the foundations had not required building control consent. The Conservation and Tree Officer commented that the works carried out to the foundations to trim the roots and reinforce the foundations were typical of the remedial mitigation works which would have been suggested to be undertaken to support the retention of a tree where that tree was potentially impacting on the foundations of a building. Remedial works would always be encouraged before resorting to felling a tree. If the order was confirmed and any future problems arose with the tree causing further damage to the foundations, the tree owner could, with supporting evidence, make a formal tree work application.

Mr Boast confirmed that he would still be arranging to plant a range of fruit trees if the Order was confirmed and the tree retained.

The Panel then heard from Mr Andrew Coombes, arboriculturalist, who had been engaged by Mr Boast following the serving of the TPO to assess the condition of the tree. At this point the tree had been partially felled. A main branch had been removed and the tree was one-sided with no growth on one side. He was concerned the tree was now vulnerable and exposed to stress and strain and potential cracking and failure. In the longer term, the tree would be susceptible to future problems due to the number of exposed wounds caused by the partial felling were beyond the British Standard acceptable levels. Prior to the partial felling the tree had been a sound specimen. Mr James Dent of AT Coombes Associates Ltd added that there was a risk of mass damping by way of increased force on the remaining stems of the unbalanced tree. In response to a question as to what measures could be taken to mitigate against the damage done to the tree, Mr Coombes stated it was possible to consider reducing the tree to rebalance it but that this would involve further cuts which would not help. Mr Coombes asked the Conservation and Tree Officer if he had any views on this point. The Conservation and Tree Officer commented that if a protected tree had lost similar limbs through a natural occurrence, efforts would be made to look to carry out remedial works to preserve the tree rather than see it felled. He was aware there were signs of regrowth on the tree which could continue but this regrowth would be very slow. The tree had withstood three named storms since the partial felling had been carried out.

In presenting his case, the Conservation and Tree Officer stated that the order had been made as a matter of urgency due to being advised of its imminent felling. A conversation had taken place with Eden Tree Care, the contractors on site, who has stated that if they had not done the felling someone else would have. The Conservation and Tree Officer said he had sympathy with Mr Boast's position but the perceived concerns from nearby residents were common to most trees. The loss of the tree would detract from the visual amenity of the landscape and there were already very few mature trees remaining on the ridge. The tree was in a prominent position and could be viewed from public highways, the riverside and from the ferry. Replacement

planting of fruit trees as proposed was to be welcome but would not replace the size and form of the current tree. He believed measures could be taken to mitigate against any perceived concerns including a sympathetic crown reduction mindful of the need to not add too many further open wounds which could allow entry to disease and decay pathogens. With regard to the insurance situation, the Conservation and Tree Officer stated he was unaware why there was a need to insure an individual tree and all trees within the curtilage of a home were normally covered by household insurance. Any issues of damage to a property by a neighbouring tree should be dealt with via house insurance cover. He reiterated that a considered and carefully planned, phased programme of canopy reduction could help rebalance the tree and rejuvenate balanced growth but he acknowledged this was more difficult with a Beech tree than other tree types. The tree had amenity value and biodiversity value and he felt that the tree should be retained and efforts made to look for management options to enable the safe retention of the tree.

In response to questions from members, the Conservation and Tree Officer confirmed that, if the TPO was confirmed, he could work with the tree owner to agree a programme of work to the tree which was in accordance with British Standards. With regard to a comment about the untidy cut left by the felling work, the Conservation and Tree Officer commented that there was a move within arboricultural methods to promote more informal pruning as opposed to the usual pruning of branches as this approach better replicated the natural fractures of limbs resulting from storm damage.

With regard to the age of the tree, the Conservation and Tree Officer had not examined the tree for its age but estimated it to be circa 80 years old. Mr Coombes estimated the tree could even be older – perhaps over 100 years old. The Conservation and Tree Officer also confirmed that the distance from the tree to the house foundations was within the outer limit of the tree's root protection radius and the tree would have been able to tolerate this work to the smaller fibrous roots without compromising the integrity of the tree. He also confirmed that in his opinion he believed the tree could be preserved if managed sensitively but there was always the small risk of branch or tree failure as a result of exceptional storms.

In response to a question from Mr Coombes, the Conservation and Tree Officer confirmed that a native broadleaved tree with similar form to a Beech tree would be a more appropriate replacement tree rather than the fruit trees offered.

Mr Boast stated that he was concerned that he could undertake a programme of work to the tree to ensure its future and still be faced with issues of not being able to secure insurance cover to satisfy his neighbours. He asked the Conservation and Tree Officer if a combined programme of work from himself, the Council and an insurance company would help to alleviate this issue. The



Conservation and Tree Officer stated that he was not aware of any other cases where this approach had been required.

In summing up, the Conservation and Tree Officer stated that the tree had amenity value and whilst it was not ideal that the partial felling had removed a portion of the canopy, he believed the tree would recover and could be safely and sympathetically managed over a number of years.

Mr Coombes stated it was unusual for works to a tree to be stopped part way through and that Mr Coombes had done a restraints check prior to starting the work.

With the exception of the Democratic Services Officer, all present then left the meeting whilst the Panel deliberated its decision. They were subsequently readmitted to the meeting and the Chairman announced the Panel's decision.

Having regard to all the information before them, both written and oral, and having regard to the criteria used to make the Order, the Panel decided to confirm the Order. The Panel was satisfied that the provisional TPO had been implemented and served in a just and appropriate manner and was expedient in the interests of amenity to make provision for the preservation of the tree. The Panel was also satisfied that the Council's criteria for making the Order had been met: the tree made a significant contribution to the local environment, there was no reason to believe it was dangerous, it had a life span in excess of 10 years, it did not present an unacceptable or impracticable nuisance and contributed to the biodiversity of the immediate area.

It was, accordingly,

**RESOLVED** to confirm the Broadland District Tree Preservation Order 2022 (No 3) Hill House, 2 Middle Hill Reedham NR13 3T.

If any person was aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.

(The meeting concluded at 12.15am)

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Chairman

## **Appeals lodged against the making of tree preservation orders (TPOs)**

The panel comprises three district councillors. At least two members of the panel must be present at each hearing.

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### **Notes on procedure**

#### **1. Site Visit**

- 1.1 Before or on the day of the hearing, members of the appeals panel may visit the site to inspect the trees subject of the appeal. If the trees are not visible from the highway, arrangements will be made with the objectors for members to gain access to the area
- 1.2 Where it is not possible to hold a site visit, photographs of the trees will be made available to members.

#### **2. The Hearing**

- 2.1 All parties (public, local parish council/district council ward representatives, council officers directly involved in the TPO, and the objector) may attend the meeting which will be held in public. If any party cannot attend the meeting, they may appoint someone to act on their behalf or they may submit written representations for consideration. Note: If the objector cannot attend the meeting nor appoint an agent to act on his behalf and they decide to submit written representations, no cross question will be allowed of any party.
- 2.2 The chairman of the panel formally opens the hearing and explains the procedure.
- 2.3 The objector presents the case for objecting to the making of the order and calls any witnesses in support of their case.
- 2.4 The council's officer and panel members ask questions (if any) of the objector and their witnesses.
- 2.5 The council's officer puts the case for the making of the order and calls any witnesses in support of their case.
- 2.6 The objector and panel members ask questions (if any) of the council's officer and their witnesses.
- 2.7 Any parish council representative, or any district councillor (who is not a member of the panel) or member of the public present, may speak to the panel.
- 2.8 The panel, the objector and the council's officer ask questions (if any) of anyone speaking at 2.7 above.
- 2.9 The Council's officer makes a closing statement

- 2.10 The Objector makes a closing statement
- 2.11 A final opportunity is given to panel members to seek clarification on any outstanding matter
- 2.12 The panel members then retire to consider their decision in private (the representative of the assistant director governance and business support will accompany them to give advice on procedural matters).
- 2.13 The panel will re-join the public meeting and its decision will be announced in public with a summary of the reasons for making its decision.
- 2.14 The chairman will advise the objector of the right of appeal, as follows:

*If any person is aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.*

## **STATEMENT OF CASE**

**Provisional Tree Preservation Order (TPO 2022 No.8)**  
**87 Cawston Road, Aylsham.**

**Report Author(s):** Mark Symonds  
Conservation and Tree Officer (Majors Team)  
01603 430452  
mark.symonds@southnorfolkandbroadland.gov.uk

**Portfolio:** Planning

**Ward(s) Affected:** Aylsham

### **Purpose of the Report:**

To brief the Panel on the representations received to the making of a Provisional Tree Preservation Order and invite the Panel to consider the representations made and decided whether to confirm or not to confirm.

### **Recommendations:**

1. It is recommend that the Panel consider the representations received and determine whether to confirm the Order without modification, with modification or not to confirm the Order.

#### **1. Summary**

- 1.1 This report sets out the reasons why an Order was made, the representations received and the officer's response to those representations.

## **2. Background**

- 2.1 T1 to T12 are located within the front and rear gardens of No.87 Cawston Road, Aylsham. The Provisional Tree Preservation Order (PTPO) protects individual trees of the following species: Beech, Bramley Apple, Hawthorn, Lime, Maidenhair Tree, Norway Maple, Scots Pine, Silver Birch and Walnut.
- 2.2 No.87 Cawston Road is a residential property which is located south of Cawston Road and north of Goulder Drive within a verdant area of Aylsham that has some existing trees already protected by Tree Preservation Orders (TPOs) with the trees located at No.68 & 70 Cawston Road protected by TPO 2000 No.13 (modified) and also the significant trees growing along Jewels Lane, which is a the Public Right of Way, located to the east being protected by TPO 2004 No.1.
- 2.3 The PTPO was requested by the owner of No.87 Cawston Road due to them having concerns the trees could be at risk of being felled in the future if the property was sold as the trees were not currently protected due to the property being located outside the Aylsham Conservation Area. The owner and their family had planted and nurtured the trees over many years and wanted to ensure the landscape and wildlife benefits the trees provided would be ensured.
- 2.4 Following a site visit to view the trees by the Tree & Conservation Officer, the Council decided to make the PTPO in order to protect twelve individual trees for the reasons stated within the Regulation 5 Notice: *'The Council has made the order as the trees in question contribute to the visual amenity of the immediate and surrounding land and are significant landscape features'*.
- 2.5 Following the serving of the original PTPO the Council received one letter of objection from the owners of 83 Cawston Road, Aylsham.

## **3. Current position/findings**

- 3.1 The case for making the order is set out at appendix 1.
- 3.2 The representations received to the making of the Order and the officer's comments on these are attached at appendix 2.
- 3.3 The criteria used to determine the making of an order is set out at appendix 3.
- 3.4 Objection to the order is attached at appendix 4.
- 3.5 Copy of the order/notice/letter to residents set out at appendix 5.

## **4. Proposed action**

- 4.1 The officer's view is that the Order should be confirmed without modification.

## **5. Other options**

- 5.1 Members could also come to the conclusion that not all the trees are worthy of protection and modify the order, removing protection from some of the trees, or that none of the trees merit protection and that the order should not be confirmed.

## **6. Issues and risks**

- 6.1 The risks involved in not protecting the trees are that they could be felled in the future.
- 6.2 **Resource Implications** – none
- 6.3 **Legal Implications** – none
- 6.4 **Equality Implications** – none
- 6.5 **Environmental Impact** – the felling of the trees would deplete the tree cover within the district and remove the many benefits the trees provide, including the sequestration of carbon through the removal of carbon dioxide from the atmosphere and the destruction of the habitat they provide for wildlife.
- 6.6 **Crime and Disorder** – none

## **7. Conclusion**

- 7.1 The trees identified as T1 to T12 within PTPO contribute to the visual amenity of Cawston Road, Goulder Drive and the junction of Mill Lane, due to their varied species, form and location and also provide valuable habitat, shelter and food for the local wildlife.
- 7.2 The trees are not considered to be in an unsafe condition at this time
- 7.3 The trees should have a remaining lifespan exceeding ten years, barring any unforeseen circumstances.
- 7.4 I do not believe the trees will cause an increase in nuisance which would be considered unreasonable or impractical to abate in the future.
- 7.5 This PTPO has been implemented and served in a just and appropriate manner.

## **8. Recommendations**

- 8.1 It is recommended that the Order be confirmed without modification.

## **Appendices attached**

Appendix 1 – Case for making the order

Appendix 2 – Representations received and the officer comments on these

Appendix 3 – Criteria used for making the order

Appendix 4 – Objection to the order

Appendix 5– Copy of the Order/notice/letter to resident

## **Appendix 1 – Case for making the TPO 2022 (No.8)**

### **How do the trees, subject of this report, make a significant contribution to the local environment?**

The trees are significant due to their collective form and locations, contributing to the visual amenity of the immediate and surrounding area, visible to the public from the highway and footpaths located on Cawston Road, Mill lane and from the north aspect of Goulder Drive.

Although it is acknowledged that some of the trees are still semi-mature and are smaller in stature and not so visible from a public perspective at the moment, however their significance as landscape trees will increase as they continue to grow and mature.

### **Is there a reason to fear the trees may be dangerous?**

No evidence has been provided to identify that the trees would be considered dangerous.

The majority of the trees are still young, showing signs of good vitality and physiological health, with on evidence of decay or compromised stability being observed.

### **What is the expected lifespan of the trees, barring unforeseen circumstances?**

The trees protected by the PTPO are a mix of species which have varying lengths of approximate life expectancy, with Silver Birch around 70 years, Apple and Hawthorn around 100 years, Walnut and Maple around 150 years, Scots Pine around 200 years and Lime, Beech and Maidenhair trees 300+ years.

At the present time the trees would be considered as semi-mature and if they remain healthy, should have a considerable remaining life span well in excess of 10 years.

### **Do the trees, in their present location, show signs of causing a nuisance in the future which is unacceptable or impractical?**

The protected trees are all located within the front and rear gardens of No.87 Cawston Road, with T1, T2, T3, T4, T11 & T12 along the road frontage, T9 & T10 on the west boundary and T5, T6, T7 & T8 within the rear garden.

It is acknowledged that the canopies of trees T6 Beech and T7 Silver Birch hang over the boundary of the rear garden of No.83 Cawston Road and have been highlighted within the objectors letter, as the trees which the owners of this property particularly object to and have stated this is due to branch encroachment from both trees and also that the lower trunk growth of T6 has damaged the boundary fence.

It would appear that the concerns relating to the branches which encroach over the boundary of No.83 Cawston Road, could be resolved if an application was made to undertake a canopy raise and a canopy spread reduction, and this work would be consented if the specification followed the recommendations within BS 3998 Tree Work and recognised good arboricultural practices.

The damage to the boundary fence could also be resolved, if the existing panels were replaced with bespoke panels, retro-fitted around the trees lower trunk.



The canopies of trees T1, T2, T3 and T12 are closest to the public highway, although the trees canopies don't obstruct the use of the road or footpath.

In my opinion, the future retention of the trees will not be the cause of a nuisance that is unacceptable or impractical for the foreseeable future.

### **How do the trees contribute to the biodiversity of the immediate area and/or offer a habitat for wildlife**

Nine different tree species are protected by the PTPO, six of which, Apple, Beech, Hawthorn, Lime, Scots Pine and Silver Birch are native species.

The biodiversity value of native trees is well recognised and their importance in providing, food, shelter and nesting sites for mammals, invertebrates and birds.

All of the native species listed contribute to this at the present time and this will increase if the future.

If the trees are allowed to mature, they could also provide dead wood habitat for insects and holes for nesting birds.

In addition the three none native species, Maidenhair Tree, Norway Maple and Walnut add diversity to the species mix of the location, which helps future proof the local tree stock from the pressures of climate change and plant disease pathogens, which are increasingly having a negative impact on the health of our native trees.

## **Appendix 2 - The representations received to the making of the order and the officer's comments on these**

The Council has received one letter of objection to the making of TPO 2022 (No.8).

### **Comments made in objection**

I have summarised the points made in objection below.

The points of objection have been given within a letter received from the owners of 83 Cawston Road, dated 23/06/2022.

- 1 We object most strongly to those trees being included which impinge drastically on our property. We particularly object to T6 and T7. T6 a Beech, is not only planted very inappropriately hard on the boundary but because it has been there approximately 40 years its trunk has actually burst the fence. The branches overlap our property by almost quarter of our area. Obviously the roots must also intrude drastically into our property.
- 2 The trees are not regularly cared for and we consider it is a great nuisance, it has caused us great stress in the past, planted practically on our property, and we would like an order to have T6 cut down, certainly not have a tree preservation order on it.
- 3 The trees in question are a detriment to the surrounding gardens, and the roots again would extend onto their land and maybe undermine their foundations.
- 4 The others including T7 belong to the owner of No.87 Cawston Road, along our boundary also greatly overhang our property which we would like trimmed. T7 also ought to be drastically pruned; Trees need to be kept under control and hanging branches can become dangerous if neglected.
- 5 We dispute these particular trees in a back garden contribute to a visual amenity and are a significant landscape feature.

### **Tree Officer Responses to the main points of objection**

- 1 The main points of objection relate to the planting position of Beech T6 and Silver Birch T7, due to the overhanging canopies of both trees, which extend over the boundary with 83 Cawston Road and that the growth expansion of the lower trunk of T6 has caused damage to the boundary fence. Both of these points of objection would appear to be quite straightforward to resolve, by undertaking a canopy spread reduction and canopy lift, which would be consented if a formal Tree Work Application was made and the works applied for followed the recommendations within the British Standard for Tree Work, as has been undertaken to Beech T6 in the past. Also by repairing the boundary fence by installing bespoke replacement fence panels, allowing for the clearance and future growth of the trunk of T6.

- 2 It has been claimed that the trees are a cause of great nuisance being planted on the boundary, and the objectors are requesting that an order to cut down T6 is made, neither of these points of objection can be directly influenced by the trees being protected by a TPO, as the owner of No.87 Cawston road is within their rights to plant trees anywhere within the property curtilage and neither the objectors or the Council have any right to undertake the removal of T6, whether it is protected by a TPO or not. The making of the TPO only removes the objectors automatic '*Common Law Right*' to prune back overhanging branches, without first gaining consent by making a formal Tree Work Application.
- 3 Encroaching tree roots have also been mentioned as a cause for concern, although no evidence has been provided to show that any nuisance or damage has occurred, it should be noted that the planting positions of T6 & T7 are both located at least 38m from the closest elevations of the main dwelling at 83 Cawston Road. It is acknowledged that the two trees are located closer and approximately 12m to an auxiliary building, which is situated to the south of the main residential dwelling. ( All measurements taken using the councils CADCORP GIS mapping system)
- 4 The objectors have highlighted the trees are not their responsibility and that branches overhang the boundary, and in their opinion the trees should be kept under control and drastically pruned, to prevent hanging branches becoming a danger, it is my opinion that remedial works to undertake sympathetic crown spread reduction or canopy lifting would not be considered impractical, would be consented if a formal Tree Work Application was received by the Council, this could be made by the tree owner or the objectors.
- 5 Due to some of the trees being located within the rear garden of No.87 Cawston, it has been questioned by the objectors, that T6 & T7 contribute to the visual amenity of the location and are a significant landscape feature. Whilst it is agreed that the two trees are not as visible to the public as those located on the Cawston Road frontage, T6 & T7 are still visible to the public, when viewed from the northern end of Goulder Drive, being prominent trees on the skyline.

### **Appendix 3 - The criteria used to determine the making of an Order**

- THE CASE FOR MAKING A TREE PRESERVATION ORDER (TPO)
  - Within Chapter 8, Part VIII, Special Controls, Chapter I under Sections 197, 198 & 201 of the Town and Country Planning Act 1990 the Council has powers to protect and plant trees where it appears 'expedient in the interest of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order'.
  - 'Amenity' is not defined in law, so authorities need to exercise judgement when deciding whether it is within their powers to make an order.
  - However, in March of 2014 the Department for Communities and Local Government (DCLG) issued a guide to all LPAs on TPOs entitled – Tree Preservation Orders and trees in conservation areas. This guide indicates that:
- A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interest of amenity.
- An order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species.
- Local Planning Authorities (LPAs) should be able to show that a reasonable degree of public benefit in the present or future would accrue before TPOs are made or confirmed. The trees, or at least part of them, should normally be visible from a public place such as a road or footpath.
- The risk of felling need not necessarily be imminent before an Order is made. Trees may be considered at risk generally from development pressures or changes in property ownership, even intentions to fell are not often known in advance, therefore precautionary Orders may be considered to be expedient.
- The guidance also indicates that LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured way, taking into account the following criteria:
  - Visibility
  - Individual & collective impact
  - Wider impact
  - Other Factors
  - Size and form;
  - Future potential as an amenity;
  - Rarity, cultural or historic value;
  - Contribution to, and relationship with, the landscape; and
  - Contribution to the character or appearance of a Conservation Area.

- Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change.
- The guidance further indicates that it is important to establish a consistent approach, therefore the following points are considered before recommending a TPO:

#### Broadland District Council's Five Criteria to Justify Making a TPO

- Do the trees that are subject of this report make a significant contribution to the local environment?
- Is there a reason to fear that the trees may be dangerous?
- Can the trees be expected to live for longer than ten years, barring unforeseen circumstances?
- Do any of the trees in their present location show signs of causing a nuisance in the future which is unacceptable or impractical?
- Do the trees contribute to the biodiversity of the immediate area and/or offer a habitat for wildlife?

## Appendix 4

FAO M. SIMMONS/C WATTS/H H ELLORS

83 CAWSTON ROAD  
AYLSHAM  
NR11 6ED

Broadland District Council  
Conservation  
Thorpe Lodge  
1 Yarmouth Road  
Thorpe St Andrew  
NR7 0DU

BROADLAND DISTRICT COUNCIL

23 JUN 2022

RECEIVED

23 June 2022

### TREE PRESERVATION ORDER 2022 NO 8

Dear Madam

Our comments on the tree preservation order 2022 (8), your letter dated 31 May 2022, we object most strongly to those trees being included which impinge drastically on our property.

We particularly object to T6 and T7. T6, a beech, is not only planted very inappropriately hard on the boundary but because it has been there approximately 40 years its trunk has actually burst the fence. The branches overlap our property by almost a quarter of our area. Obviously the roots must also intrude drastically into our property. Some probably 20-30 years ago we approached [REDACTED] to cut some of the overlapping branches and eventually their son did this (we had quite a job of cutting up, carting and clearing these large branches away). The tree(s) are not regularly cared for and we consider it is a great nuisance, it has caused us stress in the past, planted practically on our property, and we would like an Order to have T6 cut down, - certainly not have a tree preservation order on it. The trees in question are a detriment to us and the locals, a detriment to the surrounding gardens, and the roots again would extend onto their land and maybe undermine their foundations. If people have trees they must keep them trimmed and controlled- these have become a nuisance.

The others including T7 [REDACTED] boundary also greatly overhang our property which we would also like trimmed. So we await your comments on T6 and whether you would be able to action a major cut, but we would really ask for a order for it to be cut down.

T7 also ought to be drastically pruned; Trees need to be kept under control and hanging branches can become dangerous if neglected as you know.

We maintain good relations with [REDACTED] (No 87) [REDACTED]

[REDACTED]  
[REDACTED] So we have lately been unable to keep our land as we used to or would like. [REDACTED]

[REDACTED] Therefore were very shocked to receive your proposed tree preservation order on these trees in what are enclosed back gardens;

We dispute these particular trees in a back garden contribute to a visual amenity and are a significant landscape feature.

We hope you will take this matter to take constructive action to protect us and the surrounding houses. We hope this can be resolved amicably.

[REDACTED]

[REDACTED]



## TOWN AND COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

### Town and Country Planning Act 1990 The Broadland District Council Tree Preservation Order 2022 (No.8)

The Broadland District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### Citation

1. This Order may be cited as the Broadland District Tree Preservation Order 2022 (No.8)

#### Interpretation

2. (1) In this Order "the authority" means the Broadland District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—  
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or  
(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

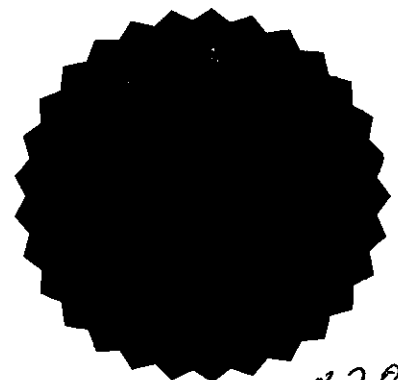
#### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 31 day of May 2022

The Common Seal of the Broadland District Council  
was affixed to this Order in the presence of—

Monitoring Officer



4209



## SCHEDULE 1

### SPECIFICATION OF TREES

#### Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Walnut	TG 11808 26613
T2	Walnut	TG 18812 26614
T3	Lime	TG 18815 26616
T4	Scots Pine	TG 18813 26611
T5	Bramley Apple	TG 18836 26584
T6	Beech	TG 18840 26577
T7	Silver Birch	TG 18837 26574
T8	Hawthorn	TG 18831 26576
T9	Maidenhair	TG 18809 26593
T10	Norway Maple	TG 18803 26590
T11	Silver Birch	TG 18804 26604
T12	Silver Birch	TG 18805 26608

#### Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
NONE	NONE	NONE

#### Groups of trees (within a broken black line on the map)

Reference on map	Description (including number of trees in group)	Situation
NONE	NONE	NONE

#### Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
NONE	NONE	NONE

# BROADLAND DISTRICT

## TREE PRESERVATION ORDER 2022 No.8

### KEY

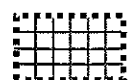


Individual trees (T1 etc.)



Groups (G1 etc.)

Innner edge of broken line denotes boundary



Areas (A1 etc.)

Innner edge of dots denotes boundary



Woodland (W1 etc.)

Innner edge of line denotes boundary



Scale as shown



**Broadland**  
District Council

*Community at heart*

Thorpe Lodge, 1 Yarmouth Road,  
Thorpe St Andrew, Norwich, NR7 0DU

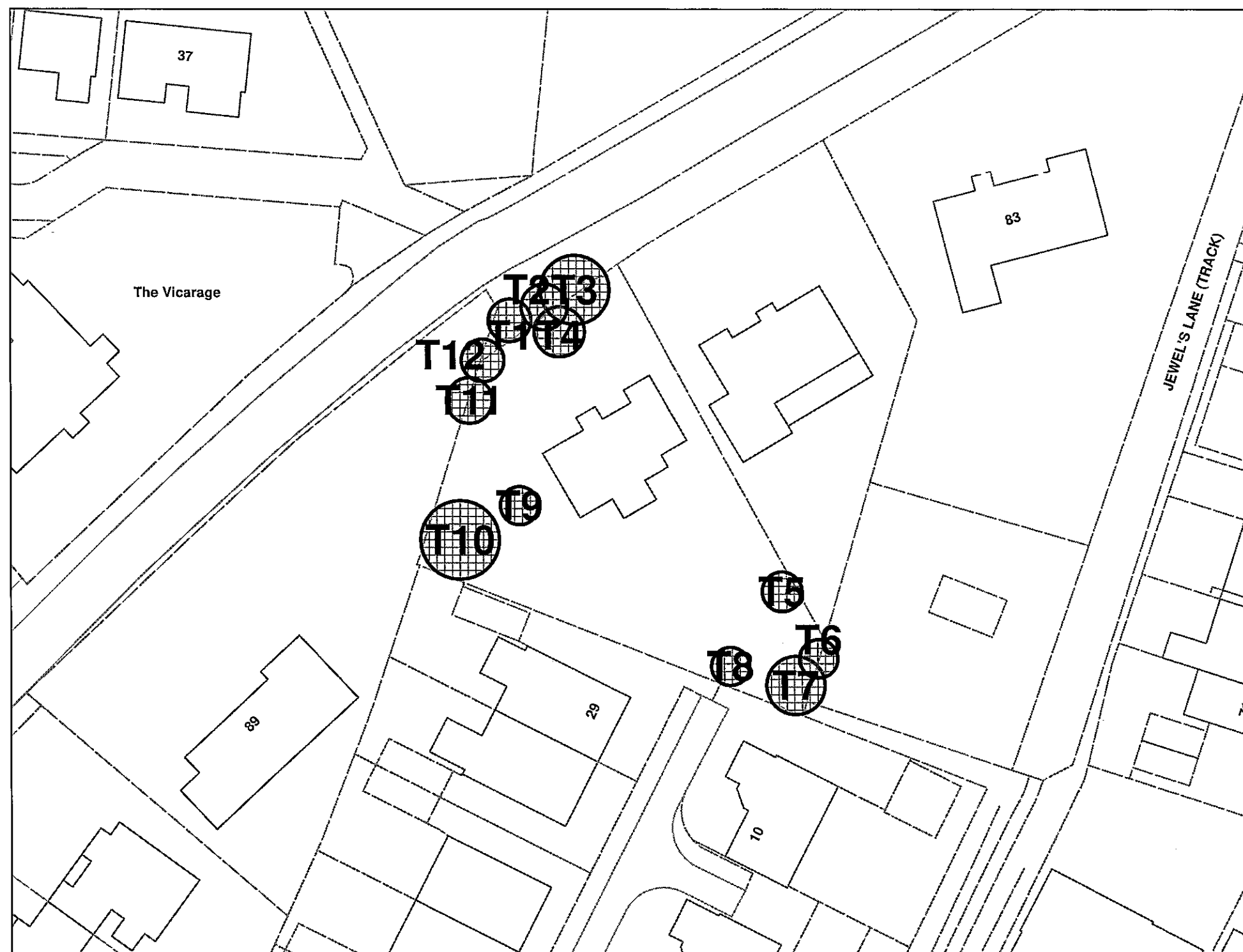
Tel (01603) 431133

E-mail: [conservation@broadland.gov.uk](mailto:conservation@broadland.gov.uk)

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be made.

## AYLSHAM



## TREE PRESERVATION ORDER 2022 No.8

87 Cawston Road, Aylsham, NR11 6ED

*Hedds*

Monitoring Officer

Scale 1:500

8209

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012**

**The Broadland District Tree Preservation Order 2022 (No. 8)  
Broadland District Council**

To: 87 Cawston Road, Aylsham, NR11 6ED

THIS IS A FORMAL NOTICE to let you know that on 31 May 2022 the Council made the above tree preservation order.

A copy of the order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Procedures*, produced by the Department of Transport, Local Government and the Regions.

The Council has made the order as the trees in question contribute to the visual amenity of the immediate and surrounding land and are significant landscape features.

The Order took effect, on a provisional basis, on 31 May 2022. It will continue in force on this basis for a maximum of 6 months or until the order is confirmed by the Council, whichever first occurs.

The Council will consider whether the order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the order have a right to make objections or other representations (*including your support*) about any of the trees, groups of trees or woodlands covered by the order.

If you would like to make any objections or other comments, please make sure we receive them in writing by 28 June 2022. Your comments must comply with regulation 6 of the Town and Country Planning Act (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to Ms T Lincoln (Development Manager) at the address given below. All valid objections or representations are carefully considered before a decision on whether to confirm an order is made. Any comments you make will be available for public inspection. Therefore please be advised that any letter received could not be treated in confidence.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact Mark Symonds at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU. Telephone (01603) 430452.

Dated this 31 day of May 2022



**Helen Mellors**  
Assistant Director of Planning

**COPY OF REGULATION 6 OF THE TOWN AND COUNTRY PLANNING ACT  
(Tree Preservation) (England) REGULATIONS 2012**

Objections and representations

6(1) Subject to paragraph (2), objections and representations –

- (a) shall be made in writing and –
  - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
  - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
- (c) in the case of an objection, shall state the reasons for the objection.

6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected



Ask for: Conservation  
Direct Dial: (01603) 430452  
Email: [planning.bdc@southorfolkbroadland.gov.uk](mailto:planning.bdc@southorfolkbroadland.gov.uk)  
Our ref: TPO 2022 No.8  
Date: 31 May 2022

87 Cawston Road  
Aylsham  
Norfolk  
NR11 6ED

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Dear Sir/Madam

**Town and Country Planning Act, 1990**  
**Town and Country Planning (Tree Preservation) (England) Regulations 2012**  
**The Broadland District Tree Preservation Order 2022 (No. 8)**  
**87 Cawston Road, Aylsham, NR11 6ED**

The Council, as Local Planning Authority, has decided that it is expedient in the interests of amenity to ensure the preservation of certain trees on land of which you are the owner and/or occupier, or an owner and/or occupier of adjoining land on which the trees stand.

It is deemed necessary to serve a Preservation Order to cover trees as set out in the First Schedule and Map of the attached Order, to ensure their protection.

The trees in question have been made the subject of a Tree Preservation Order under Section 198 of the Town and Country Planning Act, 1990. A copy of the Order is enclosed, together with a formal Notice of its making.

The Order is of immediate effect. You have the right to object or endorse the Council's actions in protecting trees within your Parish. Particulars are given in the formal Notice.

Yours sincerely

**Helen Mellors**  
Assistant Director of Planning